

FORESTRY (AMENDMENT) ACT.

New South Wales



ANNO OCTAVO DECIMO

ELIZABETHÆ II REGINÆ

Act No. 20, 1969.

An Act to provide for the making of certain agreements on behalf of Her Majesty; to simplify the procedure for the revocation of the dedication of certain land in certain cases; to increase the term for which certain licenses may be granted; to increase the penalties for certain offences; to make provision with respect to certain roads in State forests; to validate certain matters; for these and other purposes to amend the Forestry Act, 1916, the Public Roads Act 1902, and certain other Acts; and for purposes connected therewith. [Assented to, 2nd April, 1969.]

BE

Forestry (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by No. 20, 1969 and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Forestry (Amendment) Act, 1969". Short title and citation.

(2) The Forestry Act, 1916, as subsequently amended, is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the Forestry Act, 1916–1969.

(4) The Public Roads Act 1902, as subsequently amended and as amended by this Act, may be cited as the Public Roads Act, 1902–1969.

2. The Principal Act is amended—

(a) (i) by omitting from section twelve the word "All" and by inserting in lieu thereof the words "Subject to subsection two of this section, all"; Amendment of Act No. 55, 1916. Sec. 12. (Receipt of money.)

(ii) by inserting at the end of the same section the following new subsection:—

(2) Upon such terms and conditions as the Treasurer may from time to time approve—

(a) there may be established and maintained in the Treasury, for the purposes of this Act, a special deposits account or special deposits accounts; and

(b) the commission may pay moneys into, and expend moneys in, any special deposits account so established.

(b) by inserting in subsection two of section thirteen after the word "amount" the words "that, after excluding any amounts paid to a special deposits account established under subsection two of section twelve of this Act, is"; Sec. 13. (Expenditure.)

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Sec. 15.
(Purchase or
resumption
of land.)

- (c) (i) by inserting in section fifteen after the word "thereto" the words "and may, in like manner, appropriate land dedicated as State forest for the purpose of giving effect to an agreement entered into under section 16A of this Act";
- (ii) by omitting from the same section the words "for Public Works";
- (iii) by omitting from the same section the words "said Minister shall" and by inserting in lieu thereof the words "Minister may, where land is appropriated for the purpose of giving effect to an agreement entered into under section 16A of this Act, and shall, in any other case,";
- (iv) by inserting at the end of the same section the following new subsection :—

(2) Notwithstanding anything contained in subsection two of section eighteen, section nineteen, section 19A or subsection four of section 25A of this Act, sections forty-three and forty-four of the Public Works Act, 1912, as subsequently amended, shall operate to revoke any dedication as State forest, declaration as national forest or setting apart as flora reserve of any land appropriated under this section for the purpose of giving effect to an agreement entered into under section 16A of this Act.

New
sec. 16A.Exchange
of land
dedicated as
State forest.

- (d) by inserting next after section sixteen the following new section :—

16A. (1) Subject to this section, and notwithstanding anything contained in any Act, the Minister may, on behalf of Her Majesty and the commission, enter into an agreement for the sale or other disposal of land dedicated as State forest subject to the sale of other land, or of an interest in other land, to Her Majesty for the purpose of a State forest or for access thereto.

(2)

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(2) An agreement entered into under No. 20, 1969 subsection one of this section may contain such provisions, stipulations, covenants, terms and conditions as the Minister thinks fit and, without limiting the generality of the foregoing provisions of this subsection, may make provision for and with respect to—

- (a) the addition to an existing holding, to be held as part thereof, of the land sold or otherwise disposed of on behalf of Her Majesty, or the tenure upon which it is to be held under an Act relating to the disposal of land vested in Her Majesty;
- (b) the price, value, capital value, rent, or capital value and rent, attributable to the land sold or otherwise disposed of on behalf of Her Majesty and, where appropriate, the price payable for land, or an interest in land, sold to Her Majesty;
- (c) the surrender to Her Majesty, before land dedicated as State forest is appropriated for the purpose of giving effect to the agreement, of any estate or interest in that land;
- (d) the giving, taking or retention of possession, pending implementation of the agreement, of land affected by the agreement, and the terms and conditions thereof;
- (e) the receipt by the commission of moneys otherwise payable to Her Majesty under the agreement.

(3) The Minister shall not enter into an agreement under subsection one of this section unless he is satisfied that—

- (a) execution of the proposed agreement has been recommended by the commission;
- (b)

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- (b) the Minister administering the provisions of an Act, other than this Act, relating to dealings with land vested in Her Majesty has approved the proposed agreement in so far as it relates to the grant of or other dealing with land that, pursuant to the agreement, is to be held subject to those provisions and in so far as it relates to the terms and conditions upon which it is to be so held;
- (c) a copy of the proposed agreement has, where it provides for the sale or other disposal of dedicated land that exceeds fifty acres in area, been laid before both Houses of Parliament; and
- (d) where compliance with paragraph (c) of this subsection is required—
- (i) that notice has not been given in either House of Parliament within fifteen sitting days after a copy of the proposed agreement has been laid before it, of a motion that the agreement be not entered into; or
 - (ii) where any such notice is given, that the motion pursuant thereto has been withdrawn or defeated.
- (4) Subsection three of this section shall not operate to prevent the Minister from entering into an agreement by reason only that the parties thereto differ from those specified in a proposed agreement, relating to the same lands, that he is authorised to enter into.
- (5) No party to an agreement purporting to be made pursuant to subsection one of this section or person claiming an estate or interest in any land the subject of such an agreement, nor the
Registrar-General

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Registrar-General or other person registering or certifying title to land the subject of such an agreement, shall be bound to inquire—

- (a) whether subsection three of this section has been complied with in relation to the agreement; or
- (b) whether the Minister is authorised to give effect to the agreement by an assurance of land vested in him as constructing authority.

(6) Where an agreement entered into under subsection one of this section provides for the doing or execution of any act, matter or thing pursuant to an Act other than this Act and the doing or execution of the act, matter or thing would not, but for this subsection, be authorised by that other Act, the doing or execution of that act, matter or thing shall be deemed to be so authorised, and any other act, matter or thing for which the agreement provides may be done or executed without any further authority than this Act.

(7) A failure to comply with subsection three of this section in respect of an agreement shall not invalidate the agreement or anything done thereunder.

- (e) by inserting next after subsection two of section eighteen the following new subsection :—

Sec. 18.
(Dedication
of State
forests.)

(2A) Without affecting—

- (a) the declaration of any land as national forest;
- (b) the setting apart of any land as flora reserve;
- (c) any rights or obligations conferred or imposed by or under this or any other Act,
the

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- the Governor may, by order published in the Gazette, constitute two or more State forests, or any parts of two or more State forests, as one State forest for the purposes of this Act.
- Sec. 19.
(Revocation of dedication.)
- (f) by omitting from section nineteen the word "A" and by inserting in lieu thereof the words "Subject to sections 16A and 19B of this Act, a";
- Sec. 19A.
(National forests.)
- (g) by omitting from section 19A the words "The dedication" and by inserting in lieu thereof the words "Subject to sections 16A and 19B of this Act, the dedication";
- New sec.
19B.
- (h) by inserting next after section 19A the following new section :—
- Revocation of dedication, &c., in certain circumstances.
- 19B. (1) Notwithstanding anything contained in this or any other Act, where the Minister, after considering a report and recommendation by the commission, is of the opinion that land not exceeding fifty acres in area (being land dedicated as State forest or flora reserve) should be made available for a public work, or an authorised work, within the meaning of the Public Works Act, 1912, as subsequently amended, or for a public purpose within the meaning of any other Act, the Minister may, by notification published in the Gazette, being a notification that specifies the public work, authorised work or public purpose for which the land should, in his opinion, be made available, revoke the dedication of that land as State forest or, as the case may be, flora reserve.
- (2) A notification published under subsection one of this section shall, notwithstanding anything contained in this Act, operate also to revoke—
- (a) any declaration of the land thereby affected as national forest; and
- (b) any setting apart of the land thereby affected as flora reserve.
- (i)

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- (i) by omitting from subsection four of section 25A the word "A" and by inserting in lieu thereof the words "Subject to sections 16A and 19B of this Act, a"; No. 20, 1969
Sec. 25A.
(Flora reserves.)
- (j) by omitting from subsection two of section twenty-six the word "ten" and by inserting in lieu thereof the word "twenty"; Sec. 26.
(Issue of general and special licenses; their effect.)
- (k) by omitting from section twenty-seven the word "forty" and by inserting in lieu thereof the words "one hundred"; Sec. 27.
(Penalties for unlawfully taking timber or products.)
- (l) by omitting from section twenty-nine the word "one" wherever occurring and by inserting in lieu thereof the word "two"; Sec. 29.
(Penalty for unlawfully working sawmill.)
- (m) (i) by omitting from subsection one of section thirty-two the word "forty" and by inserting in lieu thereof the words "one hundred"; Sec. 32.
(Penalties for unlawfully using land or ringbarking trees.)
- (ii) by omitting from subsection two of the same section the words "two dollars" and by inserting in lieu thereof the words "five dollars";
- (n) by inserting next after section thirty-three the following new section :— New sec. 33A.
- 33A. (1) The Minister may— Roads of access.
- (a) by notification published in the Gazette, declare any road—
- (i) constructed on land dedicated as State forest (whether or not the land is declared to be national forest or set apart as flora reserve) or dedicated as flora reserve; and
- (ii) described in the notification in such manner as the Minister thinks fit,
to

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to be a road of access for the purposes of section two hundred and seventy-nine of the Crown Lands Consolidation Act, 1913, as subsequently amended; and

- (b) by a like notification published with the consent of the Minister for the time being administering that section, revoke wholly or in part any notification published under paragraph (a) of this subsection.

(2) A notification under paragraph (a) or (b) of subsection one of this section shall, upon publication thereof, have effect according to its tenor.

(3) Nothing in subsection one or two of this section or in any notification published thereunder, and no use by the public of any road affected by such a notification, shall operate to affect the status, as State forest, national forest or flora reserve, of the land upon which it is constructed and that land shall remain vested in Her Majesty and shall, subject to subsection two of this section and section two hundred and seventy-nine of the Crown Lands Consolidation Act, 1913, as subsequently amended, remain under the control and management of the commission.

Sec. 38.
(Power to enter land and inspect.)

- (o) by omitting from subsection two of section thirty-eight the word "twenty" and by inserting in lieu thereof the word "fifty";

Sec. 41.
(Regulations.)

- (p) (i) by omitting from section forty-one the figure and symbols "(1)";
- (ii) by omitting from the same section the word "forty" and by inserting in lieu thereof the words "one hundred";

Sec. 44.
(Penalties for offences against officers, etc.)

- (q) by omitting from subsection one of section forty-four the word "one" and by inserting in lieu thereof the word "two";

(r)

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(r) (i) by inserting in section forty-five after the word "particular" the words ", or omits to make, in any such book, return, declaration or statement, any entry or writing of any material particular, or omits to keep or make any such book, return, declaration or statement,"; No. 20, 1969
Sec. 45.
(False entries or returns.)

(ii) by omitting from the same section the word "two" and by inserting in lieu thereof the word "four".

3. (1) The Principal Act is further amended by inserting next after paragraph (b) of section forty-one the following new paragraph :— Further amendment of Act No. 55, 1916.
Sec. 41.

(ba) providing for the payment by a licensee to a Pastures Protection Board constituted under the Pastures Protection Act, 1934, as amended by subsequent Acts, of a percentage of royalty, not exceeding twenty per centum, in respect of timber or timber products obtained under license from the area under the control of that Board. (Regulations.)

(2) Subsection one of this section shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

4. The Public Roads Act 1902, as subsequently amended, is amended by omitting paragraph (d) of subsection four of section eight and by inserting in lieu thereof the following paragraph :— Amendment of Act No. 95, 1902.
Sec. 8.
(Resumption for road.)

(d) in the case of land referred to in paragraph (c) of subsection three of this section that is land dedicated to any public purpose—

(i) where trustees of the land have been appointed—a notice of the proposed resumption has been posted to those trustees or

(ii)

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- (ii) where the land is within a State forest national forest or flora reserve—the provisions of subparagraph (i) of paragraph (b) of this subsection have been complied with or

- (iii) where the land is within a nature reserve—the provisions of subparagraph (ii) of paragraph (b) of this subsection have been complied with or.

Transitional provision.

5. Where any act, matter or thing to be done or executed after the commencement of section two of this Act in relation to any land purchased, resumed or appropriated before that commencement under section fifteen of the Principal Act would, but for this section, be required to be done or executed by the Minister for Public Works as constructing authority, that act, matter or thing may be done or executed by that Minister or, as constructing authority, by the Minister for the time being administering the Principal Act.

Validation.

6. Where, before the commencement of subsection one of section three of this Act, a licensee under the Principal Act paid to a Pastures Protection Board constituted under the Pastures Protection Act, 1934, as subsequently amended, a percentage of royalty in respect of timber or timber products obtained under license from the area under the control of that Board, the payment thereof is hereby validated.